

we should take a look at it and say, let us set a measurable standard for the school district. Let them set the standard. It does not have to be driven down from the national government. Then measure them against their own standard in the future and reward improvement. Reward people who are accountable and are moving forward in education instead of just those who fill out the proper grant form.

I think this would help in two regards. One, it would give the right incentives to school district to work towards improving achievement for their students as opposed to work toward meeting some requirement that has been set by the Federal Government.

I will give one example of that. In my home State, for a while, we drove the money out for special ed based on how many special ed students there were, period. There was no ceiling on it. So slowly but surely we saw the creeping increase in the number of special ed students in school districts, not because there were more coming in, but because the school districts knew, if they could qualify more as special ed, they would get more money.

Did this do anything to improve the quality of education? No, but that was the incentive that we gave the school district.

Let us give the right incentive. Let us tell them that we will drive more dollars out to the degree to which they are improving the academic achievement of their students.

Another good idea that I have seen is one that was introduced by the gentleman from Florida (Mr. DAVIS) and the gentleman from Indiana (Mr. ROEMER) on alternative certification of teachers. In addition to encouraging local control and higher standards and accountability, we also need to make sure that we have the level-best teachers out there and as many of them as we need.

The idea of setting up alternative certification procedures so that professionals who may have worked in a variety of different fields who now want to get into teaching can without necessarily having to go through the normal certification process.

If we have somebody who has been a professional physicist for a number of years, it does not make sense to say to them they somehow cannot teach physics. Let us take advantage of that brain power we have out there to help our students.

But the biggest point I want to make today is one does not have to simply blindly support education. Support it, but expect results.

EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FOSSELLA) is recognized for 5 minutes.

Mr. FOSSELLA. Madam Speaker, I think the previous speaker, I think millions of Americans agree that,

among the most important priorities for any family, particularly young family, is their child's education. Along those lines, I believe that the essence of this country is about freedom. However, it seems that too often when it comes to education, there is no such thing as freedom.

□ 1800

There are many, many families across America who have no choice when it comes to selecting a school for their child. In fact, the controls dictate that they send the child to the school that has been zoned for them.

Now, frankly, I think ultimately what we need to do is to ensure that every parent across this country, regardless of income, because regrettably it is the low- and middle-income families that suffer the most, that regardless of income those parents have the ability, the opportunity, and the freedom to choose the best school possible for their child. I do not think there is a more important decision that a parent can make, yet in making that decision too many are deprived.

Along those lines we can also take steps to get to that point. Recently, the Republican Party has introduced legislation that will take us down the path to true freedom when it comes to education. The notion that we can take billions of dollars out of Washington and send it back home, whether Staten Island or Brooklyn, where I am from, or anywhere else across America, I think is common sense to the ordinary American. Because the average, ordinary American says, I think that my community, with the teachers and the principals and the administrators and the local PTAs, if given that money, would be in a better position to determine what is best for their children. Perhaps it would be smaller classrooms, perhaps more money dedicated to math and science. It could be a range of issues. It could be more money dedicated to arts.

But, sadly, the model that has been created over the last number of years is let us send billions to Washington with strings attached, with endless reams of red tape and bureaucracies that make it almost unreasonable to deliver quality education to the folks back home.

So that is why I think when we provide flexibility and reduce the amount of red tape and send that money back home to the communities that need the money and to the classrooms where that money belongs we are doing the right thing for America and for the families and the children across America. And at the same time we should demand appropriate accountability from school districts that too often are unaccountable to anybody.

So I think we have to move down this path of getting funds away from Washington. Because this money does not just fall out of the trees. The reality is that people get up every morning and go to work and at the end of the week,

or every 2 weeks, out of that paycheck goes money to Washington. And that money stays here. But we want to send that money back home to where Americans really are.

I hope everyone will listen to the debate in the next few months. It could even go on for a year, because there are a lot of defenders of the status quo here. There are a lot of defenders of the status quo who believe in their heart that taxpayer money is better spent here in Washington by people who will never set foot in the communities of those taxpayers. They believe they know what is best for all America's children and all America's families.

And I just throw that out there; that if we believe that wherever we are in America, that our local school districts and our local communities and schools are in the best position and the best able to determine what is best for their children, then we should support common sense legislation like Straight A's: demands accountability and sends the money back home. However, if we do not believe the status quo is serving our children correctly, if we believe that there should be as many strings attached to the decision-making at the local level, if we believe that folks in Washington know best what is going on in Staten Island or Kansas or Texas or Alaska, if we believe that, then we probably do not support this legislation and we do not support initiatives to move to the path of freedom when it comes to education.

Madam Speaker, the next several months will underscore, I believe, this Congress' desire to improve education and raise academic standards. I would only hope all Members would support this legislation.

COMMUNICATION FROM THE HONORABLE RICHARD A. GEPHARDT, DEMOCRATIC LEADER

The Speaker pro tempore laid before the House the following communication from the Honorable RICHARD A. GEPHARDT, Democratic Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 18, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 591(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (112 STAT. 2681-210), I hereby appoint to the National Commission on Terrorism: Honorable Jane Harman of Torrance, California and Mr. Salam Al-Marayati of Shadow Hills, California.

Yours Very Truly,
RICHARD A. GEPHARDT.

PATIENTS' BILL OF RIGHTS

The SPEAKER pro tempore (Mrs. EMERSON). Under the Speaker's announced policy of January 6, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Madam Speaker, let me say that this evening my plan is to discuss the Democrats' Patients' Bill of Rights.

I think many of my colleagues know that within the Democratic party we have, for several years now, highlighted and prioritized HMO reform as one of the major issues that we would like to see addressed in the House of Representatives, and our answer to the need for managed care/HMO reform is a bill called the Patients' Bill of Rights. And we call it the Patients' Bill of Rights essentially because it is a comprehensive way to provide protections to patients against some of the abuses that we have seen within managed care and within HMOs.

The reason I am here tonight, Madam Speaker, is because I want to highlight the fact that once again in this session of Congress, and just like the last session of Congress, Democratic Members, including myself, have been forced to resort to a petition process, what we call a discharge petition, that many of us signed. Today we started the process, this morning, and I believe now there are 167 Members, Democratic Members, who have signed a discharge petition at this desk over here near the well, because we have not been able to get the Republican leadership, which is in charge of the House of Representatives, to have a hearing or have a committee markup or bring to the floor the Patients' Bill of Rights.

That is an extraordinary procedure, to move to the discharge petition. It is something that the minority usually is not required to do because the majority party allows debate, or should allow debate, on issues that are of importance to the average American. But in this case, once again, I would suggest that the reason is because the Republican leadership is so dependent on the insurance industry and so determined to carry out the will of the insurance industry that they have been unwilling to let the Patients' Bill of Rights be considered in committee or come to the floor.

In fact, what we saw last year in the House and what we are seeing again this year in the House is essentially a three-pronged strategy by the Republican leadership to deny a full debate and vote on the Patients' Bill of Rights.

First of all, they simply delay for 6 months, since January, by not allowing the bill to be heard in committee or marked up in the committee. And then, when that seems to fail because the pressure gets too strong that they have to do something, they come forward with what I call a piecemeal approach.

Just the other day, about a week ago, in the Committee on Education and the Workforce, one member of the Republican leadership brought eight individual bills that were purported to deal with the need for HMO or managed care reform. But those were individually bills or collectively bills that did not add up to much in terms of ade-

quate protections for patients in HMOs. And I would say that, once again, this piecemeal approach is a way to avoid having the comprehensive bill, the Patients' Bill of Rights, heard.

In fact, when the ranking member, the senior Democrat on the Subcommittee on Postsecondary Education, Training and Life-Long Learning, that sought to bring up the Patients' Bill of Rights, he was essentially gaveled down and told that he was out of order in trying to raise the Patients' Bill of Rights in committee.

And what happened today, my understanding is, that even some of the Republicans on the committee, who are not in the leadership and basically did not support the Republican leadership, threatened if they were not allowed to bring more comprehensive patient reform or HMO reform to the full Committee on Education and the Workforce, that they would basically support the Democrats and ask that the Patients' Bill of Rights or a more comprehensive approach be brought up. They essentially defied the Republican leadership.

It is nice to know that there are some Republicans here that are willing to defy the leadership over this very important issue of HMO reform. But, unfortunately, the leadership is still in charge and they simply postponed the markup on those HMO reform bills.

Now, the next step is, because we are signing this discharge petition, because so many of us will eventually sign this discharge petition, the next step in the effort to stifle managed care reform was what we saw last year in the Republican Congress, which is they then bring up a bill which is so loaded down with nongermane issues, like medical malpractice, medical savings accounts, health marts, that it obscures the basic patient protection legislation and causes such mucking up of HMO reform that the bill ultimately dies of its own accord.

So I do not know what the Republicans are going to do this year, but from what I can see they are simply stalling, refusing to bring up the Patients' Bill of Rights, and we are all, Democrats and friendly Republicans, going to have to keep pushing and pushing with our discharge petition.

I would like to yield now to a member of the Committee on Education and the Workforce, the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for yielding, and I wanted to agree with him and reemphasize some of the points that he has made.

Just a very simple one, and a point that I think is very important with regard to HMO reform, and that is that only the Congress, only the National Government can make the types of changes that need to be made with regard to HMO reform in this instance because of the nature of our laws in terms of interstate businesses and HMO involvement and insurance.

Our State lawmakers cannot modify the conditions that are placed and the requirements imposed in terms of those HMO agreements. They must fundamentally be made by the United States Congress. The States alone cannot do this. So it is not a repeat or a reiteration of what States have done.

Now, I think that along the way, many HMOs have, in fact, extended some of the benefits and some of the reforms on a single and a voluntary basis, and I commend them for that. But I think all too often this becomes a patchwork quilt of policy which does not have any symmetry, and it is necessary for Congress to act. And Congress has, frankly, not been able to get its act together and to, in fact, present a rational health care policy.

I think as the changes have occurred very rapidly in the health care programs and in the insurance benefits that are extended to our working families, clearly it means that in many instances consumers really do not have a place at the table when the HMO or health care decisions are made that affect their families and their lives.

And of course, as we know, increasingly health care professionals, including medical doctors, do not have a place at that table. So I think the primary effort here is to try to build a policy in which there is a voice for consumers, that there is a voice for health care professionals, along with those that are trying to obviously make health care efficient in terms of saving dollars and providing a benefit to service.

That is the ultimate goal. But we must act here because of the nature of interstate laws. And Congress is reluctant to do that. Today I signed the discharge petition. I was number 65. I think the gentleman from New Jersey was probably before me in that number. I think we have maybe 100 signatures, and if we can accomplish the goal of getting 218 signatures, then notwithstanding the fact that the majority, the leadership in this House, has not saw fit to schedule this bill for the floor, not even permitted votes on it to date in the committees of our House, then we, in fact, could bring that important priority that the American people have and that American families need to the House floor and act on that policy.

I know our counterparts in the Senate, the Senate Democrats, are experiencing the same problems; that it is being frustrated in terms of deliberate consideration. I think this system that we have is somewhat cumbersome and somewhat difficult, but it is the only recourse that we have based on the policy that is being enunciated in terms of trying to prevent these matters from being voted upon on the floor.

So I hope we can get the type of bipartisan support that is necessary to bring this important matter to the floor, and I commend the gentleman for his efforts in terms of voicing these concerns tonight on the floor and to the public.

□ 1815

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman. If I could just follow up on a couple of things that he said.

We had today in the Committee on Commerce a subcommittee hearing on the question of independent and external review, which again I was somewhat critical of the fact that the Committee on Commerce, which has the major jurisdiction over health care in the Congress, has not had a hearing on the Patients' Bill of Rights but now again is sort of taking this piecemeal approach and looking at little pieces of this. But I would say that the issue of holding managed care companies responsible for denial of care with a real, reliable, and enforceable appeal and remedy is an important issue.

One of the things that came up was we had testimony from someone who was involved in the Texas law, and Texas has a very good law on the books that incorporates a lot of the patient protections that we have in the Patients' Bill of Rights, but one of the points that she made was exactly what the gentleman from Minnesota (Mr. VENTO) made, which is that this is great for Texas but the majority of Texans do not take advantage or cannot because of the ERISA Federal preemption that we have as a matter of Federal law.

One of the things that was stressed was that when Texas imposed an independent external review process, if they had been denied a particular treatment, one of the Federal courts has recently actually ruled that Texas did not have the power to do that at all because of the ERISA Federal preemption. So it just, once again, brings home the fact of why we need action on the Federal level.

The other thing that I thought was interesting was that I thought it was sort of painfully obvious at this hearing that there were several Republican Members who really supported a comprehensive approach and essentially agreed with all the Democrats that this is what we should be doing, yet it was very obvious that the Republican leadership had no intention of doing that.

So again, there are some Members that will join us on the other side and, hopefully, will sign our petition so we get to the 218. But so far, the Republican leadership has slammed the door and said, there is no way we are going to consider this Patients' Bill of Rights, and that is very unfortunate and what we have to keep fighting for.

I want to just briefly, if I could, mention some of the key things that we are fighting for in the Patients' Bill of Rights. And then maybe I will yield to one of my colleagues that are here joining me this evening.

The two most important things that I would say, one is this whole issue of providing for real enforceability. What happens now with many HMOs is that if they deny them care or particular

treatment, the only review or appeal they have is an internal one within the HMO. And of course, they, being very prejudiced in most cases, will simply deny the appeal.

What we are saying is that there has to be an independent external appeal outside the HMO; and, in addition to that, there has to be ultimately the right to sue the HMO, which does not exist today under the Federal preemption. That is one of the most important aspects of the Patients' Bill of Rights.

The other one that is linked to that is the definition of "medical necessity." Right now the insurance company decides what is medically necessary; and if they define that and all that happens once they are denied care or treatment is that that is reviewed, their own definition of what is medically necessary, then, even if they have a good independent appeal or the right to sue, it will not necessarily help them because they are using their definition.

What we say in the Patients' Bill of Rights is that the decision about what is medically necessary, what kinds of care they should receive should be made by the physician and the patient based on standard norms within the medical community for that particular specialty or whatever it happens to be and not by the insurance company. Those are the two key aspects that are not included in any of these eight piecemeal bills that are being circulated by the Republicans in the House or the legislation that the Republicans are bringing up in the Senate. Neither of those key points are included.

Mr. Speaker, I yield to the gentleman from California (Mrs. CAPPS), who has a background as a nurse and who has been on the floor many times talking about this issue in very real terms because of her own experience.

Mrs. CAPPS. Mr. Speaker, I thank my colleague from New Jersey (Mr. PALLONE) for organizing this time for us to speak together.

It has been a day on behalf of patients, I believe, here in the Congress, and that feels good to me as a nurse that we are finally now speaking clearly. What we need to do now is move this discussion from a march onto the floor by many Members who seek to have it be placed on the agenda. We need to move it from the hearing room. We need to move it right to the deliberation stage.

It is fine for us to talk here, and I am glad we can have a chance to do that and maybe summarize some of the things that have been going on and some points that my colleague has been making. And it is wonderful to see a colleague from Illinois here, as well, ready to speak. Because this is not a situation particular to one part of the country. I am from California, and it involves me personally and directly with all of my constituents. It addresses all of us.

This is a national crisis now. This is an issue that needs to be addressed

across this country and, for that reason, needs to be dealt with in this House. Yes, we have great examples of States, and I commend a State like Texas that has put into place within their State framework strong patient protection rights and has seen clearly that when they do this it does not make the cost of health care skyrocket. It really does not do that.

So it is wonderful to have the examples of communities and entities and States even where strong steps are taking place. But for us to speak on behalf of all of the citizens of this country, we need to do it here in this body, and I am pleased that we can do that.

Now a year has gone by. I was first running for office a year and a half ago as a nurse, as a school nurse, in my community for 20 years. The strongest stories that were told to me were told to me by patients who were so frustrated with their managed care, we have had managed care in California for a long time, and the flaws in it. That was good. That happened in the beginning when the cost of health care, which had skyrocketed, was brought down. But then the excesses began to show themselves and so many citizens, also patients, came up to me and talked to me about their stories, real horror stories, of what had happened to them, many of them quietly. They never really told anyone before. But we reached out to them.

I believe that the Patients' Bill of Rights gives voice to many of these concerns, the frustration about not being able to choose their own doctor, having any say in what choices they have for health care; the gag rules that prevent a health care provider from telling them all the options, whether or not their insurance covers it; access to specialties, to second opinions, to emergency room treatments.

These seem common sense to me, something that we should not really have to legislate about. But, unfortunately, we do because of these excesses that have come to bear.

The bottom line, as my colleague has pointed out, the bottom line has to do with who is making the important life-saving health and medical decisions, who do we trust our lives with, the lives of our loved ones with? Do we want it to be a bureaucrat who is an accountant, may be a whiz at being an accountant, or do we want to take advantage of someone's highly skilled training and dedication, someone we can look in the eye and can also look at our bodies and understand what health conditions we are talking about? So many of these decisions now are made without even access to the patient's records let alone meeting with the patient.

The second bottom line is who is going to be accountable when grave mistakes are made? And again, I hark the situation we heard about in our hearing today, when accountability is put into a protection clause in the health care law, it does not necessarily

skyrocket the prices. And when a life is at stake, I believe we need to really focus on that.

The hearing that my colleague and I attended today on the importance of a strong appeals process, that was a good hearing. But again, it is time to move it here to the floor where we can take some action on this.

Our country's health care system has changed from fee-for-service to managed care by and large. We have seen a revolution in health care, and we need to address the attendant issues which have gotten out of control. We do not want patients to have their medical needs denied because some third-party person is following a form here that has nothing to do with their own individual needs, and that is what we are talking about.

The patient that I am thinking of right now is a mother really with a very young child who came to me desperate with the situation that had happened to her, gave birth to twins, already had a child. So the household was full. One of the twins was born with many critical health problems. They discharged the little baby to this newly delivered mother and denied the request for skilled nursing care in the home.

It was an awful situation, just an awful situation. By the time they were able to seek redress and seek remedy for this, so much damage had been done to that young baby. And here was this household stressed to the limit with what was placed upon them, entirely inappropriate. The doctor recommended skilled nursing care in the home, and it was denied by the managed care company.

Now, this is exactly where we want this external appeal situation to be in place, but also the ability to seek redress when grievances are incurred.

This was during the campaign, and I made a pledge to this young family that I would work as diligently as I can. And I am. And I know that there is a commitment on the part of so many of us to do this, because we do have people's faces in our hearts as we are doing this. This is not some theory that we are trying to expound. We are talking about real-life situations, and we need to do it now. The longer we wait, the more hardships our country is faced with and the harder it is to really address some situations that have gotten so far out of control.

So I believe my message is to the leadership of this House that we need to pay attention to our constituents and come together. We can talk about Republican bills. We can talk about Democrat bills. This is really not a partisan issue. We should be able to demonstrate to the American people who send us here that we can enact common sense, patient first legislation that really speaks to the needs of our constituents and really addresses health care in our country. And it is about time that we do it.

Mr. Speaker, reclaiming my time, I want to thank the gentlewoman for her

comments. I really appreciate when she uses those examples of her own constituent, because I keep stressing that this is really common sense. We are coming at this because our constituents have cried out and even from personal experiences.

I think I was actually gesturing to the gentlewoman today about the fact that at the hearing one of the, I do not know if he represented the HMOs, but he certainly seemed to be an apologist for the HMOs, who said that there was no reason to allow HMOs to be sued because they do not make medical decisions. And I was outraged by that. Because, in fact, that is the problem. They are making the medical decisions.

And I did not use the example today, but when my colleague was talking about the twins that were born, I was thinking about my own son, who is now four. When he was born, he was born C-section. And they had that rule then, it has been changed now in New Jersey because of the State law, that said that for a C-section they could only stay in the hospital 2 days. I guess the normal length of time that is recommended by physicians is 4 days. And after the second day, the doctor came to us and said, "Well, you know, your wife has to go home because we have this policy that you can only stay 2 days. I do not agree with the policy," the doctor said outright to us, "but I have no choice."

Then I guess the law in D.C. requires that a pediatrician see the baby before it leaves the hospital. And he came and saw our son and said that he was jaundiced. And so they made an exception, said he could stay an extra day, the third day.

But to me that just brought home, of course they are making the medical decision. They are telling the doctor what to do. So how can they say they are not making the medical decision? They clearly are. And that is what we do not want. We do not want the insurance company to make the medical decisions that contrary to what physicians and nurses think should be the general practice. And that is what we have.

Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY), who has also been out front on this issue on many occasions on the House floor.

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for his leadership on this issue and for organizing this discussion tonight.

I was happy to join that long line of people this morning who were signing a discharge petition to allow us to fully debate HMO reform on the floor of this House. I guess we are up to about 167 Members now who are saying simply, let us discuss HMO reform, let us bring up this important legislation so that we can represent what we are hearing from constituents.

But I did something else today. I put an appeal to my constituents on my

website today so that they can join and be a force in helping to pass this legislation.

□ 1830

When you get to my web site, which by the way is www.house.gov/schakowsky, and if anyone wants to go there, I would welcome it. Whether or not you are in my district, I would appreciate hearing from you about this. It says, in flashing letters, "Help me end HMO abuses." What I am asking them for, it is a constituent alert, send me your HMO horror stories. I think it will be helpful to us if we get them to tell us. All of us have heard and I have got lots of letters myself, but I am hoping to collect a lot more.

Let me read my colleagues this invitation. It says, "The time is now for Congress to pass the Patients' Bill of Rights, H.R. 358. It is time for HMOs to be held accountable for their actions and for medical decisions to be made by doctors and nurses, not by HMO accountants."

There are proposals in Congress that claim to offer reform but instead would let HMOs go about their business of cutting care, limiting services, and raising costs while enjoying record profits. I need your help to pass real reform and defeat phony legislation. I know that many of you have fought battles with your HMOs and more often than not you lost. If you believe that it is time to stop HMO abuses, the time to act is now. E-mail me your HMO horror story, let me know if you have been denied care, forced to change your doctor in the middle of treatment, lost coverage, refused access to a specialist, or had to work for days to get what you deserved. Together, we can convince Congress to pass the Patients' Bill of Rights."

The other thing that is on the web site is a petition that has been on many web sites around the country now calling on Congress to pass the Patients' Bill of Rights so that we can get our constituents involved in the process here, bring their voice here to Congress. That, I think, ultimately is going to be the thing that will pass this legislation. I want to urge people, and I think we are making a commitment today to do everything we can, but I am urging people who may be listening and I am certainly trying to urge my constituents to pick up the phone, call your Member of Congress, let the President know, let the Speaker of the House, DENNIS HASTERT, know that you want real HMO reform.

By that, we should be talking about H.R. 358. I think the gentleman has done a good job in describing the important pieces that are in that legislation that are not in others. I am a new Member of Congress. I have found that there are a whole lot of ways to either skirt an issue or to water it down. One of them is, first of all just do not bring it up. So that is why today so many of the Members of this body signed this discharge petition so that we could

have the debate. I think it is too bad that we have to go through these kinds of mechanisms in order to just discuss things.

One is, do not bring it up, delay it as long as you can. But the other is to offer a solution that sounds like a solution but is not really a solution. That is the other thing that is going on here. There are bills that people want to be able to stand up and say, "Oh, this is the Patients' Bill of Rights. This will really solve the problem."

We have looked carefully at all those proposals and seriously at all those proposals; and we know that the elements that need to be in there, really putting health care decisions in the hands of health care professionals, making sure that HMO plans are held accountable. I had a similar experience in Illinois where I was in the general assembly. The lobbyist for the HMO who came to testify before our health committee said, "Oh, no, we don't make health care decisions. We only make coverage decisions. We're an insurance company."

I said, "Well, excuse me, sir, but in the real world, there is no difference between a health care decision and a coverage decision, because you are saying then to people, oh, you can have your heart transplant, but you have to go out and pay for it yourself. That bone marrow transplant might do you some good in your cancer treatment, but we aren't going to cover it, but you can go buy it yourself."

Ordinary people cannot go out and buy expensive tests, expensive treatments, go off to a specialist that they feel that they need or that even their primary care doctor may feel that they need. So health care decisions are made every day by HMOs because they will only cover certain things. And so they should be held accountable.

That is what H.R. 358 does. It also gives patients the right to appeal those decisions and not just to appeal it to the HMO who just denied them the care, they will have the right to external appeal, someone outside, an objective observer to look in and say, "Were you wrongfully denied the care that you asked for?"

So there is phony HMO reform and there is real HMO reform. That is what we are involved in with our discharge petition. I hope that is what we can engage the American people in, in a debate on this, real health care reform, HMO reform, and I hope that people will send their horror stories to me, will get the petition signed through the Internet and get this bill on the floor and get it passed.

Mr. PALLONE. I want to thank the gentlewoman. One of the things that I have noticed about newer Members like yourself is that you are always trying to get the public more involved through the Internet process. That is really great. I assure you that you are going to get all kinds of people contacting you, because the number one issue that I get contacted about in my

district offices are problems with HMOs and managed care.

Again, I just stress what I said before, which is that we are not coming at this out of some cloud or pie in the sky notion. This is just what people are telling us on a regular basis. People are shocked when you tell them as the gentlewoman from California brought up and talked about the gag rule. I have told some of my constituents, the way the law is, the insurance company can tell the doctor that they cannot discuss with you a mode of treatment that is not covered by the insurance, even though they think you should have it. They cannot believe it. They think that that is a violation of the first amendment or un-American. Of course it is, all those things, but they are just shocked to find out that that is okay under the law.

Really we are just talking about common sense proposals that are coming to us. You will get a lot of them, I am sure, on the web site.

Mr. Speaker, I yield to the gentleman from New York (Mr. SERRANO) who again has joined me quite often in the past on this and other issues and I am pleased to see him here tonight.

Mr. SERRANO. I want to thank the gentleman once again. It has been said quite a few times on the floor, but you always manage to get us involved in discussing the issues that we should discuss. I am reminded of a conversation that I had with the spouse of a foreign dignitary from one of the Latin American countries that I will not mention, not to get into a discussion, a country that is not as advanced as we are, and I did with that spouse what I do with a lot of people. I said, what impresses you the most about our country and what do you find hard to understand?

She said, well, obviously your overabundance of food. You have so much food in this country, you hire people to keep food from falling out of the bins in the supermarket. That is how much food you have.

I said, "What touched you or made an impression on you in a negative way?" She said, "Well, I got sick and it took me more time to discuss where I was going, who was going to treat me and what was available to me than the time it took me to realize that I was hurting and sick. I can't understand why your country would take such red tape and put it in front of people."

Obviously that person, as you said, like many of our constituents, just do not understand until we try to explain it to them that there are things that are happening in this industry, this so-called health providers industry, that is just hard to believe, that a doctor, as you just mentioned, that a doctor would not be allowed to do what a doctor does best, which is to advise a patient on what he or she feels that patient should have because they are ordered basically or not allowed by an HMO or the coverage group to present that as an alternative.

This is the United States of America in 1999. We cannot seem to get people to understand that you just cannot do that. The whole idea, I mean, sometimes I have watched my wife during the times when we have to sign up here, we, Members of Congress, have to sign up for our health plans, and I have seen my wife sit there at the dinner table with the thought of three children at home ranging in ages from 17 to 10 and trying to figure out which one, is it three from this column and seven from that, if we are covered for this, we are not covered for this. We have to ask permission for this so that we can get that. I join her in that, I say, my God, if this is what we go through and we supposedly get told all the time that we have this fabulous plan, what is everybody else who has no clue as to what they are dealing with are going through?

Again it is picking from this column and from that column. I was very proud today, and I can say this with all honesty, when we marched into this Chamber and began to sign that petition to get this bill on the House floor. I have been here now 9 years and on many occasions I have to scratch my head and wonder why the other party in the last few years will not bring a bill to the floor. As I have said, I have stood here and scratched my head, but I have never scratched my head as much as on this bill.

I mean, this is something the American people want. This is something that you provide to everyone. This is not partisan in any way, shape or form. This is not something that one party can take and run with and say we did it, this is something we as a House, as a Congress, can say we did it because we did it for our families, we did it for the public, we did it for our friends, we did it for all of us.

And yet this resistance, this desire to either say no to bringing a bill to the floor or trying to present other measures which sound like they are addressing the issue when they are not addressing the issue. I think what has happened here tonight and for the next days and weeks is exactly what was mentioned here before by the prior speaker and, that is, to get the American public involved, to get the American public to let us know that their Members of Congress how they feel about this.

If there is a parent this evening who is going through the same kind of situations where you are trying to figure out what is the best way to get coverage and you have gone through these experiences where you cannot get the right information or the proper information or the right support from your doctor because his hands or her hands are tied, if you have to spend hours trying to figure out, do I ask for this medicine, do I allow this prescription, am I covered by it, am I not covered, if any of this has happened to you, it is time you wrote, it is time you e-mailed, it is time you visited a web

page, it is time you made a phone call, because I do not know of an issue that affects more Americans than this one at this moment.

I mean, we have stood on this floor and discussed an issue that we are making some gains on, which was the issue of the uninsured children. The gentleman was the first one to bring this to the House floor, the whole issue of uninsured people throughout this country. We have made some gains on that. But this continues still to be the one area in this country where we just do not want to budge.

I do not know who it is we are concerned that we are upsetting. Are HMOs more important than your family doctor? Is your family doctor someone that you are so proud of and then you turn around and you say, "Well, don't prescribe this and don't prescribe that?" What are we talking about here? Just a few minutes ago, and I want to close with this, we were debating and we will be debating tomorrow this whole issue of desecration of the flag. I remember my first time here on the House floor when I looked at that flag behind the podium and I said, I wonder if that flag could speak to us, what would it tell us.

It may not tell us to protect it from physical abuse. It may surprise us by telling us, "Why don't you do that which makes me feel good and symbolizes everything I stand for." So on the same day that some people here are saying we have got to protect that flag, they reject a notion of protecting one of the things that the flag stands for, which is providing basic care to our children, to our women, to our elderly, to our working families in this country. And so what a better way to honor and respect the flag this week than for the Republicans to agree that they will bring this bill to the floor and discuss that issue here and give people the opportunity to get the coverage we deserve.

We are the greatest country on earth, we are the wealthiest country on earth, we are the greatest democracy on earth, but there are still a few pieces missing that we have to put together to fulfill our full potential. One of them right at the top is this inability we have to deal with this issue without worrying about who we upset, because we are not going to upset children, we are not going to upset the elderly, we are not going to upset the American people, and if we upset a few insurance companies, if we upset a few HMOs, we are not out to kill anybody.

□ 1845

We will work, and all we want is dialogue and the ability to give people their right. At the same time we protect the industry. Our job here is not to destroy one to save the other; it is to protect that which is right.

So I want to thank the gentleman once again. I know that he will be on the floor at other times with this issue again, and I will be glad to join him

then as I have joined him today and in the past.

Mr. PALLONE. I want to thank the gentleman, and if I could just comment on what he said about why the Republicans will not bring it up. I sound so cynical in saying it, but I believe strongly that it is the power of the insurance industry and the power of the insurance lobby, and I, as my colleagues know, witnessed that myself. I mean they spend millions and millions of dollars on TV ads talking about why the Patients' Bill of Rights and HMO reform should not take place. In fact, in my last election about \$4 million was spent in independent expenditure by, primarily by, the HMOs to try to defeat me because they see me as a spokesman on the issue. So they are willing to spend all this money.

Mr. SERRANO. Mr. Speaker, if the gentleman would yield because I want to get that right? He said that \$4 million was spent by HMOs and insurance companies to try to get a Member of Congress out of here who supports children and elderly getting their fair share.

Mr. PALLONE. Absolutely, and it was not just done to me; it was done to others as well. And the irony of it is what you just said which is that, you know, if you look at what we are actually asking be done, it is not going to put them out of business.

In fact, today in the Committee on Commerce we had someone come in who was responsible and put together the Texas law which is very similar to our Patients' Bill of Rights, and as my colleagues know, one of the things she said was that all the debate in the State legislature in Texas about this, all the managed care and HMOs were saying we are going to be out of business, there will no longer be any managed care in Texas. In fact just the opposite is true. They have not suffered at all. There are more managed care options in Texas today in fact than in a lot of other States even though they have a very similar law on the books.

So we are not hurting them, but obviously they perceive that we are, and they are wrong, but we just have to keep making the point, so I want to thank you again for coming down.

And I would like to yield now to the gentleman from Maine who has not only been outspoken on this issue, but also on the issue of the cost of prescription drugs in a bill that he has sponsored to try to correct that problem, and he has been concentrating on these health care issues that impact all Americans.

I yield to the gentleman.

Mr. ALLEN. I want to thank the gentleman from New Jersey for organizing this special order on the Patients' Bill of Rights, and as you indicated, I have been spending a lot of time trying to lower the cost of prescription drugs for elderly. I think it is a very important issue and one we ought to be dealing with. In fact, that is one of the frustrations these days of being in this Con-

gress. It seems hard to get good legislation up to the floor here for a vote.

As my colleagues know, last year the Patients' Bill of Rights legislation failed by just five votes, and in the past year the need for that legislation has not diminished. We ought to be able to get it up for a vote, but the Republican leadership is preventing that from happening.

So I am proud that we as Democrats today took the first step to filing a discharge petition, and lots of people around the country do not know what a discharge petition is, but it is a procedure by which we can bring legislation to the floor if we get 218 signatures on that petition without having it to go through the Republican leadership and the Committee on Rules.

As my colleagues know, we have already had to start a discharge petition in this House to try to get campaign finance reform legislation to the floor. Again, there was legislation that passed in the last Congress by 252 votes. With 252 Members supporting the legislation we still cannot bring that up. So we are going to try the same procedural tactic that we have used there.

As my colleagues know, my home State of Maine has been slow to move to managed care particularly under Medicare. We only have a few hundred people signed up for managed care under Medicare. But people are still anxious about HMOs and about managed care. In many respects what managed care companies are doing is good. The emphasis on prevention, when it is there is a real step forward in helping people take care of themselves in ways that perhaps they have not before.

But it is very important that managed care be more than managed cost. In the early days of managed care it has been clear that the companies have been successful in driving down costs. All we are saying with the Patients' Bill of Rights is we want to make sure that driving down costs does not come at the expense of quality care. That is really what this is all about. We want to make sure that certain provisions are really there for everyone.

Some States have enacted patient protections. My home State of Maine has, but there are still people because of Federal preemption who are not covered by those State laws. In Maine there are 250,000 people roughly who are not covered by the State patient protection provisions. My constituents recognize we need a national solution to a national problem, and that national solution is the Patients' Bill of Rights Act.

I know you have mentioned this before, but I want to go over what it would do. First of all, it would guarantee access to necessary care. The bill provides direct access to a specialist for patients with serious ongoing conditions. The bill requires access to and payment for emergency service. People who go to the emergency room when they are hurting need to know that as

long as a reasonably prudent lay person would do that, they are going to be paid, they are going to get coverage for that service. The bill also allows doctors to prescribe prescription drugs that are not on an HMO's predetermined list so that the doctor is making the decision, the doctor and the patient are making the decision, about the most appropriate care.

The Patients' Bill of Rights Act also provides a fair and timely appeal process when health plans deny care. The bill holds managed care plans accountable when their decisions to withhold or limit care injures patients, and it also guarantees protections for the provider-patient relationship.

The bill bans gag clauses as well as bonuses and other financial incentives to doctors to deny care. The bill protects providers who advocate on behalf of their patients with the insurance company. And furthermore, the bill prevents drive-through mastectomies and other arbitrary medically inappropriate decisions by plans.

The American people are clear on this issue. They want real protection, they do not want a watered down bill, and we have a chance in this Congress to enact real reform, and that real reform would make health care plans accountable for their mistakes just as everyone else in this country except foreign diplomats are responsible for their mistakes.

I think this is a case where, as my colleagues know, we know the problem, we are just this far away from finding the right solution to the problem. We ought to pass the Patients' Bill of Rights Act. I regret that we have to go through this discharge petition process in order to try to bring this matter to the floor. It ought to come to the floor now.

We have had some Republicans in the past Congress who have been willing to sign on and support this legislation, and I hope we will have Republicans supporting this again, but for now we are simply going to do everything we can as Democrats just to say: Give us a vote, give the American people a chance to express their opinion, and let their representatives cast the vote on the Patients' Bill of Rights Act. We ask for support for that particular legislation.

And I just want to say to the gentleman from New Jersey (Mr. PALLONE), my friend and colleague, "We really appreciate all the work you do on health care in general, and in particular, on the Patients' Bill of Rights Act.

Mr. PALLONE. I want to thank the gentleman, and I am glad you brought up the point about the drug formularies as well because there is that aspect of the bill as well, and the other thing I wanted that you brought up and I want to stress again is that, as my colleagues know, in some ways maybe we are fortunate in that we had to move this discharge process very late in the session last time. Even

though 6 months have passed, if we are able to get not only all the Democrats to sign on to this discharge petition, but also able to get a few of our Republican colleagues, we still do have some time left to try to get this to the floor, and hopefully we will be successful, and we are certainly going to keep trying until we are successful and we do bring the bill to the floor.

So I want to thank the gentleman again, and I also want to yield now to the gentleman from Texas (Mr. GREEN), my colleague on the Committee on Commerce, and he has been really outstanding in particular in pointing out how in his home State of Texas where they have actually enacted significant patient protections and what a positive impact that has had on the State even though it does not apply, of course, to so many people that have been preempted by the federal law. I yield to the gentleman.

Mr. GREEN of Texas. Mr. Speaker, the biggest concern I have in comparing what we are trying to do here in Washington and what has been done in State of Texas and other States is that the States can pass laws that regulate insurance policies in their States.

Now I have employers that are multi-State, employers who are self insured, and they come under federal law. So the State of Texas, the State of New Jersey, the State of Maine, State of California can do all they want and pass a Patients' Bill of Rights, but it only affects in fact less than 40 percent, in some cases maybe even less than 20 percent of the insurance policies that are issued in their State. In the State of Texas we have over 8 million people who have insurance policies that are covered by ERISA. When you think we have about 11 million, a little over 11 million people covered, that is a little less than 80 percent of the people are not covered by the State protections that were passed not only in 1997, but even earlier over the last 4 or 5 years, and that is why we need to have a federal legislation. And today is a special day, I guess, because we, a few of us, because of a frustration of not being able to have a managed care bill to debate here on the floor of the House and to compare our ideas or my ideas and yours or my colleagues' on the Republican side; we do not have that opportunity, and so we had to, all of us, a number of us, sign a discharge petition today to actually take a bill away from the committee you and I serve on. We serve on the Committee on Commerce. I am proud to be on that Committee on Commerce, but we are literally not doing the people's business by not addressing managed care reform and Patient Bill of Rights.

One of the concerns I had back during the Memorial Day recess, I spoke to some business owners in my district, and they said, well, we are concerned that this Patient Bill of Rights that you have will let our employees sue their employer, and I said that is the further these thing from the truth, and

tonight I would like as much time as you have left to address some of those half truths and outright untruths that we have been hearing.

One, there is nothing in this bill that will allow for an employee to sue an employer. All this does is that that employer buys an insurance policy, it is covered under Federal law, that that employer, that employee will have some rights under that insurance policy. Never would there ever be a suit against the employer because again employers can afford a Cadillac insurance plan, or they can afford the Chevy insurance plan, but as my colleagues know, some will pay for everything, some pay for only certain things, maybe higher deductibles and things like that.

But that is not what is in this bill, so they are using scare tactics to say we are going to have employees suing employers. That is just not true.

The other thing that they used is, is it going to raise the cost of health care? In fact, one publication I saw said it could increase insurance rates 40 percent, which is outrageous. Today I heard testimony; I think you did, too; that the State of Texas that did the managed care reforms that we are trying to do, there were hardly any increases at all. In fact, the increases in managed care rates were comparable to States that had no reforms that were passed. In fact, even my argument, I think, that some of those increases were already built in because the managed care companies were increasing rates 3 or 6 percent depending on the market, and they were doing that in other States that have not done it.

So what we are trying to do and the other concern I have is that they say that it will increase rates. Well, it may increase rates, but maybe it will increase them because they are having to pay some of those claims because in the State of Texas one of the items that is important in a Patient Bill of Rights is an appeals process, a fair and accurate and fast appeals process. In the State of Texas, the number of appeals that have been appealed by the patient to an impartial body, 50 percent of those appeals have been found for the patient.

So granted, it may increase rates because for 50 percent they are going to have to start paying for actual health care instead of denying it unfairly, and that is what we found in the State of Texas. And so maybe that will increase their rates. I hope not because I think their actuaries already have premiums based on what those experiences ought to be.

So in the Texas experience, for less than the cost of a happy meal at McDonald's patients in managed care could really have some fairness and protection and accountability.

□ 1900

In my home State, we have passed a lot of these patient protections, including the external appeals and the accountability and the liability. Physicians are always frustrated, health

care providers saying wait a minute, if I do something wrong, my patient can sue me, but if I call an insurance company and they say no, you cannot do that, you have to do this and the patient is injured by that, that is not fair, because they cannot sue that insurance company because they are the one practicing medicine. So that is why accountability is so important.

I would hope we would have the same experience as the State of Texas has, who has had that accountability and liability in law now for 2 years. Again, I have heard testimony today literally that there was only one or two cases filed, simply because if we have a fair appeals process, people will get what they need, and that is adequate health care. People do not want to sue insurance companies, they just want to have them pay for what they should be paying for in their health care.

Again, one of the old truths that we have heard is that there will be a mass exodus in employers dropping insurance coverage. Again, in the State of Texas, we have had literally an increase in the number of people who are covered under managed care plans, even under the new rules we have. In fact, again today, under sworn testimony, we heard that Aetna Insurance said that the State of Texas, and I assume this was recently, said the State of Texas's insurance market is the filet mignon of insurance markets, and that is a quote from a hearing today that we both attended. I have to admit, if the State of Texas under our managed care reform is the filet mignon, all I am concerned about is the hamburger. Typically, most of our folks can afford decent hamburger. So there will be no mass exodus of employers dropping health care coverage just because we are giving insurance companies some rules to live by.

Emergency care so that a person does not have to drive by the closest emergency room to get to the one that may be on their list, because frankly, we want to make sure they have the quickest and fastest emergency room care as possible.

Anti-gag. A physician or health care provider should be able to talk to their patients. They ought to be able to say, this is what your insurance company will pay for, this is what they will not pay for. Again, we have employers who can pay for the Cadillac plan and the Cadillac plan may pay for everything, but the Chevrolet plan may not pay for everything, but that doctor ought to be able to talk to their patients.

Open access to specialists for women and children, particularly chronically ill patients, so that every time they do not have to go back to their family practice person or their gatekeeper before they go to their oncologist, for example, if they are diagnosed with cancer. That should not have to be the case. Women ought to be able to use their OB-GYN as their primary care. Children ought to be able to go to a pediatrician without having to go back to a primary care doctor.

Of course, I talked about the external and binding appeals process and how important it is, and how important it is to have the accountability linked to that, that the accountability is hardly ever used if one has a real effective appeals process.

Those are the important things that managed care reform bill offers. I do not know, I heard we had 161 signatures, 167 now, so I would hope that we get to the 218. Of course, we are going to have to have it bipartisanship, and last session it was. We had some Republican Members who were supportive of the Dingell bill, and hopefully we will see them come together over the next few weeks so we can really see some national managed care reform, similar to what the States have been doing and doing so successfully.

I hear all the time that we do not want to in Washington tell States what to do. Well, I do not want to do that. But we can use the States as a laboratory, as an example, and say, okay, it is working in Texas, has been for 2 years. There is not a lot of lawsuits, there is not an increase in premiums. Actually, people are winning half of those cases.

I like to use the example that if I was a baseball player and had a 300 batting average, which is a 30 percent batting average, I would be making \$8 million a year. But for my managed care provider, if they are only right half the time when they decide my health care, I want a better percentage than the flip of a coin.

In Texas, that is our experience. We have seen that we have the flip of the coin. We want a better percentage. Managed care providers I hope will see that percentage where they are not overturned, because they are actually providing better care and they are providing for more adequate care to their customers, our doctors, patients, and our constituents.

So that is why I think it is important. This year we need to have a real Patients' Bill of Rights. Last session we had one that was worse than a fig leaf, because it actually overturned laws that were passed by our State legislatures. So it would have hurt the State of Texas, the bill that passed this House last session by 5 votes. Thank goodness the Senate killed it. This year, hopefully we will have a real managed care and Patients' Bill of Rights.

I thank the gentleman for his leadership as our health care task force person on the Democratic side. We are doing the Lord's work in trying to do this.

Mr. PALLONE. Mr. Speaker, I thank the gentleman. I know our time has run out, but I think the gentleman said it well about using the Texas example to show how what we are proposing here works and has worked in Texas over the last two years.

EQUAL ACCESS FOR CHEMICAL DEPENDENCY TREATMENT

The SPEAKER pro tempore (Mr. DEAL of Georgia). Under the Speaker's announced policy of January 6, 1999, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 60 minutes as the designee of the majority leader.

Mr. RAMSTAD. Mr. Speaker, every day politicians talk about the goal of a drug-free America. Mr. Speaker, let us get real. We will never even come close to a drug-free America until we knock down the barriers to chemical dependency treatment for the 26 million Americans presently addicted to drugs and/or alcohol. That is right, Mr. Speaker. Twenty-six million American alcoholics and addicts today.

Mr. Speaker, 150,000 people in America died last year from drug and alcohol addiction. In economic terms, alcohol and drug addiction cost the American people \$246 billion last year alone. That is with a B, \$246 billion. American taxpayers paid over \$150 billion for drug-related criminal and medical costs alone. That is more than the American taxpayers spent on education, transportation, agriculture, energy, space, and foreign aid combined; more than in all of those areas combined the American taxpayers spent for drug-related criminal and medical costs.

According to the Health Insurance Association of America, each delivery of a new baby that is complicated by chemical addiction results in an expenditure of \$48,000 to \$150,000 in maternity care, physician's fees, and hospital charges. We also know, Mr. Speaker, that 65 percent of emergency room visits are alcohol or drug-related.

The National Center on Addiction and Substance Abuse found that 80 percent of the 1.7 million men and women in prisons today in this country are there because of alcohol and/or drug addiction.

Another recent study showed, Mr. Speaker, that 85 percent of child abuse cases involve a parent who abuses drugs and/or alcohol; 85 percent of child abuse cases are related to alcohol and drug abuse. Seventy percent of all people arrested in this country test positive for drugs; two-thirds of all homicides are drug-related.

Mr. Speaker, I ask the question: how much evidence does Congress need that we have a national epidemic of addiction, an epidemic crying out for a solution that works; not more cheap political rhetoric, not more simplistic quick fixes that obviously are not working. Mr. Speaker, we must get to the root cause of addiction and treat it like any other disease.

The American Medical Association in 1956 told Congress and the American people that alcoholism and drug addiction are a disease that requires treatment to recover. Yet, today in America, only 2 percent of the 16 million alcoholics and addicts covered by health plans are able to receive adequate treatment; only 2 percent of those with